

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO.: 3:16-cv-688-RJC-DSC

CARLOS S. MILLER, )  
 )  
 PLAINTIFF, )  
 )  
 VS. )  
 )  
 NANCY A. BERRYHILL<sup>1</sup>, )  
 ACTING COMMISSIONER OF )  
 SOCIAL SECURITY, )  
 )  
 DEFENDANT. )

**THIS MATTER IS BEFORE THE COURT** on Plaintiff's Consent Motion for Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. § 2412(d)(1)(A) filed on October 11, 2017. Having reviewed the Motion, supporting materials, Memorandum in Support and the case file, the Court determines that Plaintiff should be awarded an attorney's fee under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), in the amount of \$5,129.55.

**IT IS ORDERED** that Plaintiff's Motion is **GRANTED**, to the extent that the Court will award attorney's fees in the amount of \$5,129.55, and that pursuant to Comm'r of Soc. Sec. v. Ratliff, 560 U.S. --, 130 S. Ct. 2521 (2010), the fee award will first be subject to offset of any debt Plaintiff may owe to the United States. The Commissioner will determine whether Plaintiff owes a debt to the United States. If so, that debt will be satisfied first, and if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the United States Department of the Treasury reports to the Commissioner that the Plaintiff does not owe a federal debt, the

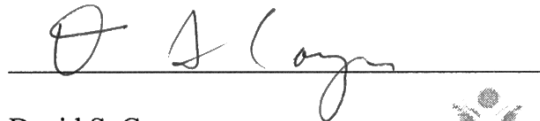
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<sup>1</sup> Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill is substituted for Carolyn W. Colvin as Defendant herein. No further action needs to be taken pursuant to the last sentence of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

Government will exercise its discretion and honor an assignment of EAJA fees, and pay those fees directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

**SO ORDERED.**

Signed: October 26, 2017

A handwritten signature in black ink, appearing to read "D S Cayer", is written over a horizontal line.

David S. Cayer  
United States Magistrate Judge

